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**U.S. District Court
Northern District of New York - Main Office (Syracuse)
[NextGen CM/ECF Release 1.2 (Revision 1.2)] (Plattsburgh)
CIVIL DOCKET FOR CASE #: 8:17-cv-01264-FJS-CFH**

Barcomb v. Daimler Chrysler AG et al
Assigned to: Senior Judge Frederick J. Scullin,
Jr
Referred to: Magistrate Judge Christian F.
Hummel
Case in other court: New York State Supreme
Court, Clinton County,
17-01210

Date Filed: 11/15/2017
Date Terminated: 04/09/2018
Jury Demand: Defendant
Nature of Suit: 350 Motor
Vehicle
Jurisdiction: Federal Question

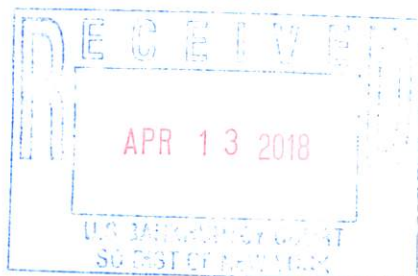
Cause: 28:1441 Notice of Removal

Plaintiff

Bonnie Barcomb

represented by **John M. Crotty**

Niles, Piller Law Firm -
Plattsburgh Office
P.O. Box 786
46-48 Cornelia Street
Plattsburgh, NY 12901-0786
518-561-1980
Fax: 518-561-7567
Email: johnc@nilesbracy.com
LEAD ATTORNEY
ATTORNEY TO BE NOTICED



V.

Defendant

Daimler Chrysler AG

Defendant

Chrysler LLC

Defendant

ECF DOCUMENT
I certify that this is a printed
copy of a document which was
electronically filed with the
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK.
LAWRENCE K. BAERMAN, CLERK
Dated: 4/9/2018
By: [Signature] Deputy Clerk

Chrysler Group LLC

Defendant

FCA US LLC

represented by **Kevin A. Szanyi**
Webster, Szanyi Law Firm -
Buffalo Office
1400 Liberty Building
Buffalo, NY 14202
716-842-2800
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Defendant

Durocher Auto Sales, Inc. represented by **Robert A. Rausch**
Maynard, O'Connor Law Firm -
Albany Office
6 Tower Place
Albany, NY 12203

518-465-3553
Fax: 518-465-5845
Email:
rausch@maynardoconnorlaw.com
ATTORNEY TO BE NOTICED

Cross Claimant

Durocher Auto Sales, Inc. represented by **Robert A. Rausch**
(See above for address)
ATTORNEY TO BE NOTICED

V.

Cross Defendant

Chrysler Group LLC

Cross Defendant

Chrysler LLC

Cross Defendant

Daimler Chrysler AG

Cross Defendant

FCA US LLC

represented by **Kevin A. Szanyi**
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Thomas S. Lane
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Brittany A. Jones
(See above for address)
ATTORNEY TO BE NOTICED

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V.

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FCA US LLC

represented by **Kevin A. Szanyi**
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Thomas S. Lane
(See above for address)
LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Brittany A. Jones
(See above for address)
ATTORNEY TO BE NOTICED

| Date Filed | # | Docket Text |
|-------------------|----------|--|
| 11/15/2017 | <u>1</u> | NOTICE OF REMOVAL from New York State Supreme Court, Clinton County, case number 2017-1210 (Filing fee \$400 receipt number 0206-4198511) filed by FCA US LLC. (Attachments: # <u>1</u> Exhibit(s) A, # <u>2</u> Exhibit(s) B, # <u>3</u> Exhibit(s) C, # <u>4</u> Exhibit(s) D, # <u>5</u> Exhibit(s) E, # <u>6</u> Certificate of Compliance with 28 U.S.C. 1446(d), # <u>7</u> Certificate of Service, # <u>8</u> Civil Cover Sheet)(see) (Entered: 11/17/2017) |
| 11/15/2017 | <u>2</u> | Corrected STATE COURT COMPLAINT relating to <u>1</u> Notice of Removal. {Corrected State Court Complaint has the correct State Court Case No. 2017-1210. Original summons with incorrect State Court case number attached as Exhibit A} (see) (Entered: 11/17/2017) |

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| 11/17/2017 | <u>3</u> | NOTICE of Admission Requirement as to Party Bonnie Barcomb; Attorney John F. Niles, Email address is ncpb.law@verizon.net. Phone number is 518-561-1980. Admissions due by 12/1/2017. {Admission letter and forms emailed to Attorney Niles on 11/17/2017}(see) (Entered: 11/17/2017) |
| 11/17/2017 | | CLERK'S CORRECTION OF DOCKET ENTRY re <u>3</u> Notice of Admission Requirement. Clerk received an email bounce back message, therefore the admission letter and forms were mailed to Attorney John F. Niles on 11/17/2017 by regular mail. (see) (Entered: 11/17/2017) |
| 11/17/2017 | <u>4</u> | G.O. 25 FILING ORDER ISSUED: Initial Conference set for 1/2/2018 at 09:00 AM in Albany before Magistrate Judge Christian F. Hummel. Civil Case Management Plan must be filed and Mandatory Disclosures are to be exchanged by the parties on or before 12/26/2017. (Pursuant to Local Rule 26.2, mandatory disclosures are to be exchanged among the parties but are NOT to be filed with the Court.) (see) (Entered: 11/17/2017) |
| 11/20/2017 | <u>5</u> | MOTION to Transfer Case Motion Hearing set for 12/22/2017 10:00 AM in Albany before Senior Judge Frederick J. Scullin Jr. Response to Motion due by 12/5/2017 Reply to Response to Motion due by 12/11/2017. filed by FCA US LLC. (Attachments: # <u>1</u> Declaration Of Thomas S. Lane In Support Of FCA Us LLCs Notice Of Removal, # <u>2</u> Exhibit(s) A, # <u>3</u> Exhibit(s) B, # <u>4</u> Exhibit(s) C, # <u>5</u> Exhibit(s) D, # <u>6</u> Exhibit(s) E, # <u>7</u> Exhibit(s) F, # <u>8</u> Memorandum of Law, # <u>9</u> Certificate of Service) (Lane, Thomas) Modified on 12/18/2017 (bjw,). (Entered: 11/20/2017) |
| 11/21/2017 | | MOTION SCHEDULING NOTICE as to <u>5</u> MOTION to Transfer Case . Motion Hearing remains set for 12/22/2017 before Senior Judge Frederick J. Scullin Jr. and will be taken on submit. No oral argument will be held unless otherwise notified by the Court. (bjw,) (Entered: 11/21/2017) |
| 11/21/2017 | <u>6</u> | ANSWER to Complaint by FCA US LLC.(Lane, Thomas) (Entered: 11/21/2017) |
| 11/29/2017 | <u>7</u> | <i>Amended</i> ANSWER to Complaint by FCA US LLC. (Attachments: # <u>1</u> Certificate of Service)(Lane, Thomas) (Entered: 11/29/2017) |

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| 12/06/2017 | <u>8</u> | NOTICE of Appearance by Brittany A. Jones on behalf of FCA US LLC (Jones, Brittany) (Entered: 12/06/2017) |
| 12/06/2017 | <u>9</u> | NOTICE of Appearance by Robert A. Rausch on behalf of Durocher Auto Sales, Inc. (Rausch, Robert) (Entered: 12/06/2017) |
| 12/06/2017 | <u>10</u> | AFFIDAVIT re <u>5</u> MOTION to Transfer Case <i>in Response and Partial Opposition</i> by Durocher Auto Sales, Inc.. (Rausch, Robert) (Entered: 12/06/2017) |
| 12/06/2017 | <u>11</u> | CERTIFICATE OF SERVICE by Durocher Auto Sales, Inc. re <u>10</u> Affidavit <i>Certificate of Service</i> (Rausch, Robert) (Entered: 12/06/2017) |
| 12/08/2017 | 12 | TEXT NOTICE: The Rule 16 Initial Conference scheduled for 1/2/2018 at 9:00 am before Magistrate Judge Christian F. Hummel and the deadline to submit a proposed Civil Case Management Plan and exchange Mandatory Disclosures are ADJOURNED without date pending a decision on the Motion to Transfer. (tab) (Entered: 12/08/2017) |
| 12/11/2017 | <u>13</u> | REPLY to Response to Motion re <u>5</u> MOTION to Transfer Case <i>Reply Memorandum of Law in Support of FCA US LLC's Motion to Transfer</i> filed by FCA US LLC. (Lane, Thomas) (Entered: 12/11/2017) |
| 12/12/2017 | | TEXT NOTICE to Attorney Thomas Lane, re: <u>13</u> Reply to Response to Motion. Since pltf's counsel did not receive notice of electronic filing, please electronically file proof of service of the above document. (see) (Entered: 12/12/2017) |
| 12/12/2017 | <u>14</u> | CERTIFICATE OF SERVICE by FCA US LLC re <u>13</u> Reply to Response to Motion (Lane, Thomas) (Entered: 12/12/2017) |
| 12/18/2017 | <u>15</u> | Letter Motion from Attorney John F. Niles for Bonnie Barcomb, advising the Court that he will not be representing pltf in this District Court action and requesting extension of time to obtain counsel to represent plaintiff. Submitted to Judge Frederick J. Scullin, Jr. (see) (Entered: 12/18/2017) |
| 12/19/2017 | 16 | TEXT ORDER REFERRING MOTION: <u>5</u> MOTION to Transfer Case filed by FCA US LLC is referred to Magistrate Judge Hummel. Further, <u>15</u> Letter Motion filed by Bonnie Barcomb requesting extension of time to obtain counsel to represent plaintiff, is also referred to Magistrate Judge Hummel. A |

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| | | new motion return date will be reset by Judge Hummel.. IT IS SO ORDERED by Senior Judge Frederick J. Scullin, Jr on 12/19/2017. (Copy served via regular mail upon Pltf's counsel)(bjw,) (Entered: 12/19/2017) |
| 12/19/2017 | <u>17</u> | TEXT ORDER granting <u>15</u> Letter Request, requesting an extension of time to obtain counsel to represent plaintiff. Attorney John F. Niles is directed to provide a status report on or before 1/19/2018 regarding Plaintiff's representation. If new counsel is retained, they are directed to immediately enter their appearance on the docket. Once new counsel has appeared, Response and Motion return deadlines will be reset RE <u>5</u> MOTION to Transfer Case . Status Report due by 1/19/2018. Authorized by Magistrate Judge Christian F. Hummel on 12/19/2017. (Copy served via regular mail on Attorney John F. Niles, Esq. on 12/19/2017)(tab) (Entered: 12/19/2017) |
| 12/19/2017 | | CLERK'S CORRECTION OF DOCKET ENTRY - The notice issued at Dkt. No. 18 resetting the telephone conference was docketed in error and has been deleted. (dpk) (Entered: 12/19/2017) |
| 01/12/2018 | <u>18</u> | ANSWER to Complaint , CROSSCLAIM against Chrysler Group LLC, Chrysler LLC, Daimler Chrysler AG, FCA US LLC by Durocher Auto Sales, Inc..(Rausch, Robert) (Entered: 01/12/2018) |
| 01/12/2018 | | TEXT NOTICE advising Attorney Robert Rausch that pltf's counsel is not admitted at this time, therefore a copy of the <u>18</u> Answer to Complaint Crossclaim will need to be traditionally served upon him. Please electronically file proof of service upon pltf's counsel ASAP. (see) (Entered: 01/12/2018) |
| 01/12/2018 | <u>19</u> | CERTIFICATE OF SERVICE by Durocher Auto Sales, Inc. re <u>18</u> Answer to Complaint, Crossclaim via CM/ECF and U.S. Mail (Rausch, Robert) (Entered: 01/12/2018) |
| 01/24/2018 | <u>20</u> | Letter Motion from Brittany A. Jones for FCA US LLC requesting that the Court set a return date for the pending motion to transfer submitted to Judge Hon. Christian F. Hummel, U.S.D.C. M.J. . (Jones, Brittany) (Entered: 01/24/2018) |

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| 01/24/2018 | <u>21</u> | CERTIFICATE OF SERVICE by FCA US LLC re <u>20</u> Letter Motion from Brittany A. Jones for FCA US LLC requesting that the Court set a return date for the pending motion to transfer submitted to Judge Hon. Christian F. Hummel, U.S.D.C. M.J. (Jones, Brittany) (Entered: 01/24/2018) |
| 01/25/2018 | 22 | TEXT ORDER deferring ruling on <u>20</u> Letter Request for the Court set a return date for the pending motion to transfer, pending a court conference. A TELEPHONIC Status Conference has been set for Friday, 2/2/2018 @ 9:30 AM in Albany before Magistrate Judge Christian F. Hummel. Attorney John F. Niles, Esq. is also directed to participate in this conference and will be notified directly, by chambers, of this Court Order. Participants are directed to dial in at 1-888-363-4749, enter access code 9496322 and security code 1234 to join the call. Authorized by Magistrate Judge Christian F. Hummel on 1/25/2018. (tab) (Entered: 01/25/2018) |
| 02/02/2018 | | Text Minute Entry for proceedings held before Magistrate Judge Christian F. Hummel: Status Conference held on 2/2/2018. Appearances (via teleconference) by John Niles, Esq. for plaintiff (not admitted and appearing on direction of the Court); Thomas Lane, Esq. and Brittany Jones, Esq. for Chrysler Defendants; Robert Rausch, Esq. for Durocher. The Court inquires as to the status of Plaintiff's representation and advises Mr. Niles that counsel, admitted in this district needs to appear on Plaintiff's behalf, or he will need to take steps to be admitted pro hac vice. The Court sets a response deadline of 2/28/2018 and a reply deadline of 3/7/2018 to Defendant's motion to Transfer Case. A text Order will be issued. (Court Reporter Lisa Tennyson) (tab) (Entered: 02/02/2018) |
| 02/02/2018 | 23 | TEXT ORDER granting <u>20</u> Letter Request to set a briefing schedule for <u>5</u> MOTION to Transfer Case : Plaintiff's Response to Motion due by 2/28/2018, any Reply to Response to Motion due by 3/7/2018. This motion will be taken on submit, unless otherwise directed. John Niles, Esq. is directed to apply for pro hac vice admission to this district or find alternate counsel for plaintiff, as soon as possible. Signed by Magistrate Judge Christian F. Hummel on 2/2/2018. (Copy served via regular mail and email to John Niles, Esq. at John@nilesbracy.com on 2/2/2018)(tab) |

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| | | (Entered: 02/02/2018) |
| 02/02/2018 | <u>24</u> | FCA US LLC's ANSWER to <u>18</u> Answer to Complaint, Crossclaim by <i>Durocher Auto Sales, Inc.</i> by FCA US LLC. (Attachments: # <u>1</u> Certificate of Service)(Jones, Brittany) (Entered: 02/02/2018) |
| 02/28/2018 | <u>25</u> | RESPONSE in Opposition re <u>5</u> MOTION to Transfer Case filed by Bonnie Barcomb. (Attachments: # <u>1</u> Certificate of Service)(tab) (Entered: 03/01/2018) |
| 03/01/2018 | <u>26</u> | TEXT ORDER re <u>5</u> MOTION to Transfer Case filed by FCA US LLC, and Plaintiff's <u>25</u> Response in Opposition to Motion filed by Bonnie Barcomb. Plaintiff is directed to file a Memorandum of Law in opposition of the pending Motion to Transfer Case, as required, within 10 days of this Order. [Memo of Law due 3/12/18]. SO ORDERED by Magistrate Judge Christian F. Hummel on 3/1/2018. (tab) (Entered: 03/01/2018) |
| 03/02/2018 | <u>27</u> | NOTICE of Appearance by John M. Crotty on behalf of Bonnie Barcomb (Crotty, John) (Entered: 03/02/2018) |
| 03/05/2018 | <u>28</u> | TEXT ORDER re-setting the Reply to Response to Motion deadline RE: <u>5</u> MOTION to Transfer Case : The Reply to Response to Motion is now due by 3/19/2018, based on the extended deadline given for Plaintiff to file a Memorandum of Law in opposition of the Motion to Transfer. Authorized by Magistrate Judge Christian F. Hummel on 3/5/2018. (tab) (Entered: 03/05/2018) |
| 03/09/2018 | <u>29</u> | Letter Motion for Bonnie Barcomb requesting court conference submitted to Judge Hummel . (Crotty, John) (Entered: 03/09/2018) |
| 03/12/2018 | <u>30</u> | TEXT ORDER granting <u>29</u> Letter Request for a Pre-Motion filing conference. A TELEPHONIC Pre-Motion Filing Conference has been set for Tuesday, 3/20/2018 @ 12:00 PM in Albany before Magistrate Judge Christian F. Hummel. Parties are directed to dial in at 1-888-684-8852, enter access code 9772719 and security code 1234 to join the call. Authorized by Magistrate Judge Christian F. Hummel on 3/12/2018. (tab) (Entered: 03/12/2018) |
| 03/19/2018 | <u>31</u> | MEMORANDUM OF LAW re <u>5</u> Motion to Transfer Case <i>Reply Memorandum of Law in Support of FCA US LLC's Motion to Transfer</i> filed by FCA US LLC. (Attachments: # <u>1</u> |

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| | | Exhibit(s) A)(Lane, Thomas) (Entered: 03/19/2018) |
| 03/20/2018 | 32 | Text Minute Entry for proceedings held before Magistrate Judge Christian F. Hummel: A Telephonic Pre-Motion Filing Conference held on 3/20/2018. Appearances by John Crotty, Esq. for plaintiff, Thomas Lane and Brittany Jones, Esqs. for Defendant Chrysler, Bridgette Schultz, Esq. for Defendant Durocher. Plaintiff requests permission to file an Amended Complaint. Defendant Chrysler objects. The Court advises counsel that the pending motion to transfer may well be decided prior to Plaintiff's anticipated Motion to Amend. Plaintiff advises that she wishes to file the Motion to Amend. The Court sets a briefing schedule and will issue a text order setting those deadlines on the case docket. (tab) (Entered: 03/21/2018) |
| 03/21/2018 | 33 | TEXT ORDER granting permission to file and setting briefing schedule for Plaintiff's Motion to Amend: Motion to be filed by 4/24/2018; Response to Motion to be filed by 5/16/2018. [Motion to Amend to be filed by 4/24/2018]. Authorized by Magistrate Judge Christian F. Hummel on 3/20/2018. (tab) (Entered: 03/21/2018) |
| 04/05/2018 | | CLERK'S CORRECTION OF DOCKET ENTRY: The Clerk, on the direction of Magistrate Judge Hummel, removed the <i>Answer to ANSWER to Complaint Amended Complaint, CROSSCLAIM against Chrysler Group LLC, Chrysler LLC, Daimler Chrysler AG, FCA US LLC by Durocher Auto Sales, Inc.</i> appearing as Dkt. No. 34, and the Certificate of Service, Dkt. No. 35, as they were inadvertently, and prematurely filed in this case. Upon the request and explanation of Attorney Robert Rausch, Esq. the Court directed that the filing be removed from the docket, to be refilled at the appropriate time. (tab) (Entered: 04/05/2018) |
| 04/09/2018 | <u>34</u> | MEMORANDUM-DECISION & ORDER that debt FCA's <u>5</u> Motion to Transfer Case is GRANTED, and, pursuant to 28 U.S.C. 1404(a), the Clerk of this Court shall transfer this action to the United States Southern District of New York, United States Bankruptcy Court and close the file; and that pltf's <u>25</u> request to apply the abstention doctrine to remand this matter to the Supreme Court, Clinton County is DENIED. Signed by Magistrate Judge Christian F. Hummel on 4/9/2018. (see) (Entered: 04/09/2018) |

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| 04/09/2018 | <u>35</u> | Cover letter enclosing certified copies of the <u>34</u> Memorandum-Decision & Order and docket sheet to U.S. Bankruptcy Court, Southern District of New York. (see) (Entered: 04/09/2018) |
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